IV. Rules for the Institution and Defence of Suits.

B. DEFENCE OF SUITS—*concluded.*

Preparation of defence.

Rule 17.—The written statement and the issue sought on behalf of Government are ordinarily to be in strict accordance with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government; but the Government Pleader is responsible, in communication with the officer concerned in the suit, for the correctness and exhaustiveness of the details of the defence.

C. Conduct of Suits.

Government Pleader's duties whilst a suit is under trial.

442. *Rule 18.*—The responsibility for the conduct of a suit in accordance with the opinion of the Remembrancer of Legal Affairs, so far as concurred in by Government, shall rest with the Government Pleader, unless special counsel is appointed on behalf of Government; and it is the duty of the Government Pleader, during the progress of the suit, to consult the Remembrancer of Legal Affairs on all matters connected with it as to which he experiences any difficulty, or doubt, and especially in respect of any interlocutory order made by the Court, or any application of the opposite party which seems to require particular instructions.

If special counsel is appointed, it is the duty of the Government Pleader, subject to the orders of the Remembrancer of Legal Affairs, to instruct him, and, when necessary, to prepare his brief, and generally to aid him in the conduct of the case.

Collector or other officer to furnish information and prepare evidence.

Rule 19.—In cases connected with the departments under the control of the Collector and Magistrate of the District, it is his duty, or that of any subordinate whom he may specially depute for the purpose, and in cases connected with any other department it is the duty of the officer who proposed the institution, or who sought the sanction of Government for the defence of the suit (as the case may be), to ascertain that the Government Pleader, or special counsel, is thoroughly acquainted with the facts of the case, and with the evidence to be adduced in support of the claim, and to see that the necessary evidence, whether oral or documentary, is ready by the proper time. The Government Pleader must keep the Collector, or other officer, informed on all points on which his co-operation is necessary, and report, with the least possible delay, if any further evidence or information is required, moving the Court, if necessary, from time to time to postpone the case, or adjourn the hearing.

An officer to be present at the trial to aid the Government Pleader.

Rule 20.—When a suit is under trial, some intelligent officer thoroughly conversant with the facts of the case should be deputed to be present to instruct the Government Pleader as to the truth concerning matters which arise unexpectedly, and to direct his attention to the documents, or other evidence, that may become important at each stage of the trial. In important cases, and in

IV. Rules for the Institution and Defence of Suits.

C. CONDUCT OF SUITS—*continued.*

every case in which special counsel is retained, an Assistant or Deputy Collector, or an officer of similar rank, should be deputed for this purpose.

Settlement of differences of opinion.

Rule 21.—Should there be a difference of opinion between the Government Pleader or special Counsel and the Collector or other officer at whose desire the suit has been instituted or defended, as to the manner of conducting the case, or should the opinion of the Remembrancer of Legal Affairs prove unintelligible on any point, or open to objection, the Remembrancer of Legal Affairs shall at once be communicated with in order that the difficulty may be settled. Should there eventually be an irreconcilable difference of opinion between the Collector or other officer and the Remembrancer of Legal Affairs, a reference shall forthwith be made by the latter to Government.

Important points respecting the conduct of suits.

Rule 22.—The following important points relating to the conduct of all suits should be carefully attended to by Government Pleaders and all officers concerned, namely :—

(*a*) the averments in a plaint, or in a written statement, should generally be based in every material point on the proof which can be adduced in support of them ;

(*b*) the evidence, whether oral or documentary, on which it is intended to rely, should be carefully scrutinized by the Government Pleader *before* it is adduced, and he should advise as to its admissibility, and probable importance or unimportance for the purposes of the suit, and suggest what evidence, if it be forthcoming, may with advantage be substituted for that which, in his opinion, would be weak or inadmissible ;

(*c*) all the available evidence should be assiduously collected and made ready for the day fixed for its reception, and the necessity of making applications for adjournment should, as much as possible, be avoided, and such applications on behalf of the opposite party should, unless they are made for sufficient reasons, be resisted as tending to prolong the litigation, and to give opportunities for the fabrication of false evidence ;

(*d*) all documentary evidence should be ready and be produced at the first hearing of the suit (*i. e.*, the day fixed for the settlement of issue), as required by section 138 of the Civil Procedure Code, and when a suit is instituted, the documents sued upon should be produced in Court when the plaint is presented, together with copies thereof, as required by sections 59 and 62 of the Code, and the list of other documents relied upon as evidence, which is required by section 59 to be annexed to the plaint, should be very carefully prepared. Applications to the Court to accept any document in evidence at any subsequent stage of the trial should, unless under special circumstances, be avoided, as such applications cannot be granted without the grant of similar indulgence to the opposite party which may place Government at a disadvantage, and should be resisted, as holding out a temptation to forgery ;

IV. Rules for the Institution and Defence of Suits.

C. CONDUCT OF SUITS—*concluded.*

(*e*) documents filed by the opposite party should be carefully examined at the earliest opportunity, and compared with originals in the Government Records, or with other papers which tend to establish, or subvert their authenticity;

(*f*) the *production* of documents in the possession of Government or of any Government Officer when lawfully required by the Court, or by the opposite party, should not be resisted unless for good and sufficient reasons, such as are recognized by law; but the question of the *admissibility* of the documents, when produced, should be carefully considered, and argued, it being borne in mind that the opinions of individual officers contained in official correspondence (which is so often called for by persons engaged in litigation with Government in order to establish their case) are, as a rule, *not admissible* in evidence;

(*g*) the object of Government in sanctioning either the institution, or defence, of any suit is simply to establish the truth; and whilst Government expect the utmost vigilance and care on the part of those entrusted with the conduct of litigation on their behalf in asserting and protecting their just interest, they would impress upon pleaders who have the charge of cases that they will not countenance any attempt to snatch an unfair advantage by the withholding of important evidence, or by any disingenuous proceeding whatever.

Decision to be reported at once by Government Pleader.

Rule 23.—As soon as a suit is decided the Government Pleader shall communicate the nature of the decision to the Collector, or other officer concerned, giving, in important or interesting cases, a brief statement of the grounds thereof. A duplicate of the Government Pleader's report shall be at once forwarded by him direct to the Remembrancer of Legal Affairs.

Government Pleader to obtain and forward copies of judgment and decree.

Rule 24.—The Government Pleader shall then obtain with as little delay as possible two copies, one certified and the other uncertified, of the Court's judgment and one certified copy of its decree. The certified copies of the judgment and decree he shall forward to the Collector or other officer concerned; the uncertified copy of the judgment he shall forward to the Remembrancer of Legal Affairs direct.

Procedure when decision is entirely in favour of Government.

Rule 25.—If the decision is entirely in favour of Government, the copies may be forwarded by the Government Pleader according to the last rule without comment, and the Collector or other officer shall communicate the result of the suit to the head of his department, sending him a copy of the judgment, or not, as, under the circumstances of the case, he thinks fit.

The Legal Remembrancer shall communicate the result of the appeal to Government, together with a copy of the written judgment. The result of any such appeal need not be communicated by the head of the department to Government, unless he is of opinion that for special reasons it is desirable to do so, in which case he shall submit his report to Government through the Legal Remembrancer.